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Against Nature:
Imperial Law and Homosexuality in India

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Introduction

On September 6, 2018, India's Supreme Court nullified Section 377 of the Indian Penal code, an article criminalizing "unnatural offenses" (Gupta, 2008, p. 18). First introduced by the British Empire in 1860, the law has enjoyed a period of more than a hundred and fifty years, serving as a testimony to the lasting effects of imperial influence. For quite a few, Section 377 introduced an imported homophobia (Gupta, 2008, p. 26); while for others, the recent repeal of Section 377 was an attack on the "values and mores" of Indian society (as cited in Gupta, 2008, p. 1). More than just a local ideological struggle, these contemporary debates surrounding the legality of modern members of the LGBTQ+ community, constitute a global struggle, as many countries, who have preserved their legal inheritance of the British Empire, grapple with an issue that challenges notions between the "authentic" and "inauthentic," the East and West.

In this essay, I will explore India's Section 377, as a case study, to analyze the effect and legacy imperialism has had within former colonial territories, such as India. In order to do so, I will draw from literary sources to first characterize male homosexual relationships within India during pre-imperial rule. Then I will transition into the second part of the essay, in which I will discuss the motivation and inception of Section 377 under British ruling; to this section, I will also be contrasting the more official imperial mandates with the histories of European writers and travelers who, upon seeking out the "East" for sexual liberation, often had varying types of relationships with local men. In the third section, I will finish by discussing the legacy of Section 377 in modern times by focusing on the apparent inversion of roles, in which newly liberated countries adopt and reintegrate the imperial penal code into their own cultural identity, while also distancing themselves from the Western "import" of homosexuality (Gupta, 2008,

p. 44). By doing so, I hope to highlight the significance of homosexuality in understanding the multiple sides of imperial power relations and histories.

Pre-colonial Homosexuality: The Persian-Urdu Tradition of Master/Slave Love

In order to contrast society's reception of homosexuality during British imperial rule, I will provide a purview of India's pre-colonial characterization of male, homosexual relationships through a literary lens. While recognizing India's expansive, and diverse history, I will focus primarily on the Persian-Urdu poetic tradition, since I will be analyzing the depictions of the Sultan Mahmud of Ghazna, a historically significant figure both in pre-imperial India, as well as during and after British rule. By doing so, I hope to understand, though in a specific and limited context, pre-imperial attitudes towards homosexuality; with this being said, I recognize that this analysis is but a fragment of a larger, more heterogeneous literary and cultural tradition within India.

Active during the eleventh century C.E., the Sultan Mahmud of Ghazna "combined Turkic military prowess with Persian administration" (Kugle, 2002, p. 30); adept and quick, he bridged portions of South, West and Central Asia, while also fortifying Islamic rule, most notably in present-day Lahore, which was turned into a regional capital that initiated the city's Islamic period (Kugle, 2002, p. 30). Despite his military and diplomatic conquests as a dynastic ruler, Mahmud's relationship with his cupbearer, al-Najm Ahmad, most commonly referred to as Ayaz, eclipsed his other accomplishments, cementing his fame, particularly in the literary world, as an "archetypal lover" (Kugle, 2002, p. 30). Throughout the Persianate territory that now encompasses modern-day India, Iran, Afghanistan, and parts of Central Asia, the Sultan Mahmud and his lover, Ayaz, were "always mentioned as a pair, on par with heterosexual romantic partners like Laila and Majnun, Heer and Ranjha" (Kugle, 2002, p. 31).

The oldest, most famous depiction of their relationship can be found in the 12th century, epic poem *Masnawi* written by the Iranian poet, Zulali, who rewrites the life of Mahmud,

placing the sultan's relationship with Ayaz as his central motivator for all military and diplomatic actions (Kugle, 2002, p. 31). Unabashedly sensual, the poem utilizes the motif of wine to characterize the passion between Mahmud and Ayaz; the act of pouring becomes a "metaphor for both kissing and for love's intoxication" while the wine itself symbolizes the "redness of lips and the redness of blood shed from a longing heart" (Kugle, 2002, p. 33). Despite the tempestuous arc of Mahmud and Ayaz's relationship, their love "triumphs," underscoring the view of Sufism that "exalts love as the highest value" (Kugle, 2002, p. 34).

Despite variations within the poetic depiction of Mahmud and Ayaz's relationship—in some, for instance their relationship is characterized as more emotional—their legacy continued within Persian-Urdu literature up until the British conquest of Delhi in 1857 (Kugle, 2002, p. 37), perhaps most importantly through a particular form of poetry, the *ghazal*. This genre of love poetry (Vanita, 2002, p. 2) was notorious for its open expression of homoerotic desire, particularly its "erotic love for boys" (Massad, 2008, p. 108). Rooted in Persian tradition, this form of poetry can be found all the way back in the Golden Age of Islam throughout the Arab-Muslim world, in the work of writers such as the Abbasid dynasty poet, Abu Newas, who was famous for his lewd portrayals of pederasty (A.L., 2018, para. 2). In this way, Mahmud and Ayaz's legacy within Persian-Urdu literature, especially in *ghazal* poetry, is not just an obscure moment in history, but rather a continuation of an already seasoned poetic tradition inherited by those under Persian influence.

At the core of these relationships described in *ghazal*, as well as in the aforementioned epic poem, is the bond between master and slave, which constitutes a sort of "historical bedrock" for understanding forms of pre-colonial homosexual relationships (Chatterjee, 2002, p. 61). During the eighteenth century, slavery was common in India, particularly in "gentry households

that patronized and produced poetry” (Chatterjee, 2002, p. 62). However, unlike the North American association of slavery with “plantation-type servitude,” these hierarchical relationships within pre-colonial India were often characterized by both “alienation” and “intimacy,” and often provided the possibility of “love” between master and slave (Chatterjee, 2002, p. 61). As such, these relationships were more so dictated by “social and political hierarchies” than they were by gender norms (Chatterjee, 2002, p. 66). Although artistic convention allowed for the self-proclamation of the speaker—who was always the free man, or master—as a “slave of love” to his muse—who was always the slave—the social convention did not permit the true reversal of these relationships (Chatterjee, 2002, p. 61): the master was always the “doer” and the slave always the “done” (as cited in Chatterjee, 2002, p. 65), echoing the pederastic relationships expressed by the typical *ghazal* poem in which the “adult male” traditionally assumes the “male” role, while the “beardless” youth, assumes that of the “female” (El-Rouayheb, 2005, p. 26). In terms of society, this “culturally sanctioned” homoerotic bond, particularly that of Mahmud and Ayaz, may have been held as the “idyllic” same-sex relationship to which “all other relationships may be represented as approximating” (Chatterjee, 2002, p. 65).

Despite being the ideal, it is important to note that these sorts of homosexual relationships were rarely considered exclusive to heterosexual relationships, even if they served as the “primary erotic and emotional relationship” (Vanita, 2002, p. 3). In fact, the Sultan Mahmud was said to have had a wife and kids, throughout his love affair with Ayaz (Kugle, 2002, p. 30-31). As such, homosexual relationships in India, both in the Persian-Urdu tradition, as well as in the Hindu tradition, are not to be considered as “alternatives” to the “obligations

and privileges of marriage” (Vanita, 2002, p. 3). Instead, one can think of these relationships as fluid, despite their also politically and socially stratified nature.

Against Nature: Imperial Law and Sexual Liberation in Colonial India

Officially enacted in 1860, the Indian Penal Code was a document in the making since 1825 by British Imperial authorities, who assigned the politician and historian Thomas Babington Macauley as the leader in devising a penal code for the colony (Bhaskaran, 2002, 15). Not only was it the “first comprehensive codified criminal law produced anywhere in the British Empire,” it introduced the infamous Section 377, which criminalized “unnatural offences” (Gupta, 2008, p. 18); this included “carnal intercourse” with “any man, woman or animal” that was considered “against the order of nature” (as cited in Bhaskaran, 2002, p. 15). Though the anti-buggery law had been in effect since 1533 in Britain, after King Henry VIII’s departure from the Catholic Church, due to its “polluting power,” more precise terms such as ‘sodomy’ or “buggery” were purposely omitted within the Indian Penal Code (Gupta, 2008, p. 14).

The British in India were particularly concerned about the “urgent” problem that sodomy posed within the colony (Gupta, 2008, p. 16); though they felt a certain “mission [towards] moral reform,” the British were more concerned about the influence such a “decadent, hot surroundings” could have on their own soldiers and imperial administrators—many of whom were both left without wives (Gupta, 2008, p. 16). Such concerns were rationalized by scientifically held claims that the area between “43 degrees north of the equator to 30 south”—what they called the “Sotadic Zone”—particularly encouraged, or heightened, one’s propensity towards pursuing these sexually perverse acts (Gupta, 2008, p. 16); in fact, sodomy became known as one of the “special Oriental vices” (as cited in Bhaskaran, 2002, p. 17). Though their concerns about the “dangers of heterosexual miscegenation” was particularly

heightened after the 1857 Indian Revolt and “shifts in British attitudes toward native governance” (Bhaskaran, 2002, p. 16), the 1850’s saw the introduction of state regulated brothels. According to the Viceroy Elgin, “no prostitutes would lead to ‘even more deplorable evils’” (as cited in Bhaskaran, 2002, p. 17); however, with the increasing fervor of Britain’s “fanatical purity campaigns,” these establishments were eventually closed in 1888 (as cited in Bhaskaran, 2002, p. 16).

In terms of prosecution, the Indian Penal Code was also influenced by two other laws, the Bengal Vagrancy Act, and the Bombay Beggars Act—both of which derived from legal measures taken in Britain to prosecute “people... wandering or loitering with no purpose” (Gupta, 2008, p. 26). Not only did these laws target the poor, but they also targeted other habitual vagabonds, who were considered “invariably addicted to crime,” such as “catamites” and *hijras* (Gupta, 2008, p. 28)—a third-gendered community within India—whose own etymology can be traced back to *ezra*, an Urdu word meaning “nomad or wanderer” (Gupta, 2008, p. 29). Though this law did not pertain directly to Section 377, the anti-vagrant laws sought to criminalize those whose activities often targeted *hijras*, “eunuchs,” and “catamites”; according to Gupta, their inconspicuous nature often attracted reasonable suspicion of “committing offenses under Section 377” (as cited in Gupta, 2008, p. 30). As such, the body and appearance of an individual “became the basis for harassment, arrest, detention and abuse” (Gupta, 2008, p. 30).

Despite such draconian, governmental regulations during British imperial rule, homosexual relations, particularly between European men and colonial subjects, in fact were not uncommon. Not just India, but the entire “East” of the Western imaginary was more than just a place of barbaric decadence, it was also a sort of “Eden” (Massad, 2015, p. 9) for sexual exploration and exploitation by those constrained by European society (Massad, 2015, p. 10-

11). Writers and travelers, such as Edward Carpenter, Oscar Wilde and Edward Searight are just a few of those who indulged in the sexual liberation offered by travelling to the East. Though arising in many forms and contexts, these relationships were largely sustained by “racial stereotypes” (Aldrich, 2003, p. 9), “idealization of foreign cultures” (Aldrich, 2003, p. 9), objectification and commodification (Aldrich, 2003, p. 9); as Aldrich (2003) states, “European homosexuals were more often interested in their partners’ bodies than their minds”—little did they care, if at all, about the economic, political, or cultural circumstances of their sexual partners (Aldrich, 2003, p. 9). In fact, according to Lawrence R. Schehr, the idea of “sexual liberation” in fact reproduces this power dynamic, as European travelers, away from home, wander and give “vent to their own desires at the expense” of the “Eastern” other (Aldrich, 2003, p. 337).

One can observe these power dynamics at play within the journeys of Edward Searight; though not actually a writer, but rather a British officer of the Indian army (Aldrich, 2003, p. 279), Searight is known for writing about his “sexual adventures” (280) particularly in the now-lost manuscript, *Paidikion/Vol. I An Anthology or the Book of Hyakinthos and Narkissos with thirteen full page photographs from life*. According to written accounts the manuscript:

contained a list of 129 youths with whom Searight had sexual relations, indicating the date and place of each encounter... the name, age and race of each partner, the nature of the sexual acts performed, the number of orgasms he had and various other information. (Aldrich, 2003, p. 280)

Of the boys mentioned in the list, the youngest of Searights’ partners was purportedly a seven-year-old Muslim boy named Rahimbu (Aldrich, 2003, p. 280).

In comparison to Searight, as well as others at the time, the British author and traveler, E. M. Forster offers perhaps a more complex relationship with those under British rule. Though there are accounts of Forster engaging in less than scrupulous relationships with a young barber—with the assistance of the Maharajah Sir Tukoji Rao Puar III, who was his employer at the time (Aldrich, 2003, p. 314)—Forster is known most notably for his relationships with Syed Ross Masood from India and Mohammed el-Adl from Egypt. These two relationships show the range these homosocial, or homoerotic relationships took within colonial times.

Upon their meeting in 1906 at Cambridge University, the friendship sustained between Masood and Forster was one of such “affection” and exuberance (Aldrich, 2003, p. 304) that even Forsters’ numerous proclamations of sexual interest in Masood did not ruin their relationship, rather it deepened their “feelings of friendship,” which lasted throughout their lifetime until Masood’s early death at the age forty-eight (Aldrich, 2003, p. 307). It is to Masood, that Forster dedicated his most successful work *A Passage to India*, a project that was both inspired, encouraged and read by Masood during the editing process (Aldrich, 2003, p. 307). Furthermore, it was Forster who wrote the eulogy for Masood at his funeral, and later donated 1,000 pounds for the construction of an “Urdu Hall in Hyderabad in memory” of his lifelong friend (Aldrich, 2003, p. 307). In his turn, Masood, who was married with children, maintained throughout his life his initial “great affection, real love and sincerest admiration” he had for Forester when they first met back in 1906 (Aldrich, 2003, p. 308).

In regard to Mohammad el-Adl, Forster’s relationship began with the sixteen-year-old conductor during Forster’s stint at Alexandria as a volunteer for the Red Cross during WWI (308). Initiated by a random act of courtesy on the part of Forster, the relationship between the two was the author’s “most significant homoerotic” relationship (Aldrich, 2003, p. 309), of

which Forster even mentions in his letters to Masood (Aldrich, 2003, p. 309). Despite the restrictions posed by Mohammed's lower-class status, race, his eventual marriage and return to the countryside, as well as his various employment misgivings and tumultuous family life (Aldrich, 2003, p. 315), their relationship continued, with Forster providing as much monetary support as he did emotional support—even often visiting Mohammed and his wife; however, in 1922, at the age of twenty-two, Mohammad died of consumption (Aldrich, 2003, p. 315). Illustrative of their relationship, his last letter to Forster before his death reads: “My love to you/ My love to you/My love to you/do not forget your ever friend” (as cited in Aldrich, 2003, pp. 314-315).

Though many of the power dynamics that were present in Searight's relationships, whether it be racially or socially, were also present within those of Forster's, the bonds created between the author and Masood, as well as with Mohammed, contrast the merely exploitative and transactional escapades of the Searight. Keeping in line with his own terminology, Forster *connected*, more than just physically, with those with whom he got to know (Aldrich, 2003, p. 325); according to Aldrich, because of Mohammed and Masood, Forster became interested, not just in Indian and Egyptian culture, but also in the effects of European imperialism (Aldrich, 2003, p. 326); he began to sympathize with the Egyptian riots and Amritsar massacre—even writing columns about them in the newspaper—because when thinking of these countries, and these people, he “could not but think of Mohammed and Masood” (Aldrich, 2003, p. 326). As such, Forster's relationship provides an interesting example of the various tensions at play during the period: on one hand, the draconian Section 377 clearly prohibited sexual acts, or “unnatural offenses” in order to both prevent the free reign of such “pollutive” forces that could influence the mass of British soldiers and administrators in India, as well as to “correct and

Christianize [the] ‘native’ custom” (Gupta, 2008, p. 16). On the other hand, it is from these same European countries, who imposed these penal codes—in this case Britain—, where individuals sought escape in order to explore the exotic, licentious “East” and experience their own sexual liberation. Oftentimes callous and objectifying, these relationships between the colonized and colonizer reinforced imperial violence and exploitation. Yet in the case of E.M. Forster one can see how these relationships had the potential to be more than just additions to “a chart of sexual conquests” (Aldrich, 2003, p. 280): in the author’s relationship with Masood and Mohammed, one can find a different sort of connection—while still riddled with power dynamics—allows for the possibility of an “anti-imperialist sentiment” and empathy for those under Britain’s rule (Aldrich, 2003, p. 316), all the while manifesting itself through the bond of a homoerotic nature.

Co-opting homophobia: The Legacy of Colonialism in a Postcolonial World

As the British Empire’s “first comprehensive codified criminal law”—as mentioned before—the Indian Penal Code was quickly adopted as a model for their other colonies throughout Asia and Africa (Gupta, 2008, p. 5). Its ubiquity, and continuous reinterpretation by various court cases throughout the years, has served as a testimony to the influence and scope of the British Empire; even after their territories gained independence, many of the countries, such as India, Singapore and Malaysia carried over this British-inherited Section 377 into their new nation states. Even when England eventually decriminalized “most consensual homosexual conduct” in the late 60’s, many of their former colonies did not follow suit (Gupta, 2008, p. 7), claiming that in doing so they would inherit the “sexual decadence” of Western culture (Gupta, 2008, p. 8): the roles had become reversed.

What was once an imposed imperial code of conduct, had become a symbol of cultural distinction and tradition; as the All India Muslim Personal Law Board stated: “Legalizing homosexuality is against Indian values and culture. No religion allows immorality” (as cited in The Hindu Net Desk, 2018, AIMPLB says verdict is against Indian Culture section, para. 1). The irony of this statement is perhaps more acute when one thinks back to pre-imperial India, particularly to the cultural presence of Mahmud and Ayaz within the Persian-Urdu literary tradition. Yet, this stance seems to have been inherited by more than just India: former colonies such as Singapore, claim that their hold on Section 377 reflects the ““sentiments of the majority of society”” while in Hong Kong, public opinions heard by the commissioner claimed that “Homosexuality may be very common in Britain, but it is definitely not common in Hong Kong” (as cited in Gupta, 2008, p. 8). In almost all defenses for retaining Section 377, the question of morality and cultural integrity was raised as a shield against the “imported” demands for decriminalization (Sheikh, 2003, p. 111). However, more than just a safeguard against tradition, Section 377 has continued, as it did during imperial times, to “provide a pretext for police harassment, extortion, arrests and arbitrary detention” (as cited in Gupta, 2008, p. 54).

One example of this can be found in India. Though Section 377 has since been repelled, police officers in 2006 from the northern city of Lucknow were said to have gone online as undercover gay men “entrapping... victims into meeting” so that they could arrest them (as cited in Gupta, 2008, p. 54). Back in 2001, five years earlier, police from the same department arrested “four staff members from two organizations that combated HIV/AIDS” (as cited in Gupta, 2008, p. 53). Not only were they charged with Section 377, but the members were also charged for “distributing information about AIDS,” which was believed by law enforcement to be “criminal conspiracy” and the ““sale of obscene materials”” (as cited in Gupta, 2008, p. 53).

In the court hearing for this case, the prosecutor was said to have claimed that homosexuality was ‘against Indian culture’” (as cited in Gupta, 2008, p. 53). The convicted were found guilty, and were refused bail by the Magistrate, who “instead of siding with the relevant law, clearly proceeded on the basis of his perceptions regarding homosexuality” (Sheikh, 2013, p. 111). Since its introduction in 1831, Section 377 has created a legacy that has not only integrated itself into the judicial system of newly liberated nation-states but has integrated itself into their culture in such a way that the “local” and “foreigner” values have become one and the same.

Conclusion:

Far from a simple story between pre-colonial and colonial, colonized and colonizer, this overview of the creation and impact of Section 377, as well as its glimpse into the history of homosexual relationships before and during British imperial rule, offers insight into the tensions between homosexuality and colonialism, as well as homosexuality and culture. From the slave-master romance glorified by the *ghazal* poetry during pre-colonial India, to the more modern-day enforcement of imperial anti-sodomy laws, the history of homosexuality provides a multifaceted glance into the tensions at play within society, particularly during imperial rule. Unlike the rigid dichotomies imposed by classifications, such as East and West, authentic, and inauthentic, exploitative and non-exploitive, the presence of homosexuality within society and culture has always been much more multi-faceted in nature and resistant to facile co-option. As such, through its panoramic exploration of this “unnatural” offense, specifically as it pertained to Britain’s rule over India, this essay highlights the ways in which homosexuality can offer an insightful lens from which to study, in a more nuanced and contextualized manner, the matrix of power and tensions latent within the local and global histories of imperialism.

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